



Comptroller General  
of the United States

Washington, D.C. 20548

## Decision

Matter of: Electronic Office Environments

File: B-254571

Date: December 27, 1993

Chris P. Juarez for the protester,  
Col. Brad Farber and Capt. Gerald P. Kohns, Department of  
the Army, for the agency.  
Guy R. Pietrovito, Esq., and James A. Spangerberg, Esq.,  
Office of the General Counsel, GAO, participated in the  
preparation of the decision.

### DIGEST

Under a brand name or equal procurement for filing cabinets, where bidders were informed that the front design was critical and that the front design, including the drawer pulls, of equal products must be similar to that of the stated brand name, a bid offering an equal product was properly rejected as non-responsive where the procuring agency reasonably determined that the front design and drawer pulls of the protester's equal product were not similar to that of the brand name.

### DECISION

Electronic Office Environments protests the rejection of its bid under invitation for bids (IFB) No. DAHA47-93-B-0015, issued by the National Guard Bureau, Department of the Army, on a "brand name or equal" basis, for file cabinets. Electronic Office contends that its lower priced "equal" bid was improperly rejected as non-responsive.

The protest is denied.

The IFB, as amended, sought bids for various vertical, five drawer file cabinets on a brand name or equal basis. The solicitation set forth the standard "Brand Name or Equal" clause contained in Federal Acquisition Regulation (FAR) § 52.210-7000, which states in pertinent part that "equal" products must meet the salient physical, functional and other characteristics specified in the solicitation. Various models of the Steelcase series 900 were identified as the brand names, and bidders were informed in section B that "equal" products "must have the front design similar to the Steelcase models listed below and be of the same height

which for a 5 drawer is 58 5/8 [inches]," and in section C that

"[a]ll cabinets quoted must have similar design to Steelcase models listed in Section B to include integral drawer pulls similar to the Steelcase model 900. The front design is critical. The color desired is Steelcase #4606 Mist or similar. Color samples shall be included with bid as well as descriptive literature showing the design and size of items quote(d)," [emphasis added]

and in section M that "[c]abinets quoted must have a front design similar to the Steelcase models listed in Section B to include a color similar to #4606 'Mist,' integral drawer pulls similar to Steelcase series 900, and height of 58 5/8 [inches]." Bidders were also informed that this solicitation was limited to commercial items, as defined by FAR § 52.211-7012(b).

The Army received nine bids, including Electronic Office's fifth low "equal" bid of \$36,856 and Rowley Schmlingen, Inc.'s seventh low "brand name" bid of \$39,903.<sup>1</sup> The agency determined Rowley's bid to be the low responsive bid because only that brand name bid and another, higher-priced bidder's equal bid offered products whose front design was similar enough to the required design to be considered responsive. Electronic Office's equal bid was rejected because the integral drawer pull of Electronic Office's product was not similar to the brand name's.<sup>2</sup> The contracting officer explained the difference between Electronic Office's and the Steelcase's drawer pulls, as follows:

"The design offered [by Electronic Office's product] has an integral pull which appears to be about two inches deep and about two inches high;<sup>3</sup> however, this indentation is placed about three inches from the top of each drawer, unlike

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<sup>1</sup>Only Rowley bid a brand name product.

<sup>2</sup>Initially, the agency also questioned the height of Electronic Office's product, which has a height of approximately 60 inches, which is in excess of the specified 58-5/8 inches. However, the Army discovered that all products bid, including the brand name product, exceeded the height stated in the IFB. Accordingly, the Army waived this requirement for all bidders.

<sup>3</sup>The Steelcase series 900 also has an integral drawer pull that is about 2 inches deep and 2 inches high.

Steelcase which runs across the top of the drawers. Also, it is not the full width. There appears to be about two inches of margin on both ends of the pull, unlike the Steelcase which runs continuous, end to end."

Electronic Office was informed of the rejection of its bid, and this protest followed. No award has been made pending our resolution of the protest.

Electronic Office contends that the front design of its equal product is similar to the specified brand name and therefore its bid is responsive. The agency responds that the front design, and specifically, the drawer pulls, of Electronic Office's product is not similar. In this regard, the agency states that the front design of the file cabinets was considered critical because "it was desired to have the same style file cabinets so that the offices would have a more uniform look unlike the mismatched appearance they have now."

To be responsive to a brand name or equal solicitation, bids offering "equal" products must conform to the salient characteristics of the brand name listed in the solicitation. Innovative Refrigeration Concepts, B-252357, June 9, 1993. In determining whether a particular item meets the solicitation requirements which are set forth as salient characteristics, agencies enjoy a reasonable degree of discretion and we will not disturb its technical determination unless it is unreasonable. American Bristol Indus., Inc., B-249108.2, Oct. 22, 1992, 92-2 CPD ¶ 268.


From our review of the record, we are unable to say that the agency unreasonably concluded that Electronic Office's equal product was not similar to the front design of the brand name. Bidders were informed that the front design, including the integral drawer pulls, was "critical" and must be similar to that of the brand name. As noted above, the front design and drawer pulls of Electronic Office's equal product are different from that of the brand name, and will not satisfy the agency's requirement to have file cabinets that closely match existing cabinets in the agency's possession. While Electronic Office disagrees with the agency's technical determination that the front design of the protester's equal product was not similar to the brand

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<sup>1</sup>Agencies may reasonably specify detailed design specifications that are necessary to maintain an aesthetic appearance. See Allen Organ Co.--Recon., B-231473.2, Aug. 31, 1988, 88-2 CPD ¶ 196; Westinghouse Elec. Corp., B-224449, Oct. 27, 1986, 86-2 CPD ¶ 479.

name, this does not show that the agency's determination was unreasonable.

The protest is denied.

  
/s/ James F. Hinchman  
General Counsel